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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
07/405,792	09/11/89	WHIPPLE	D A85010CIPCCI

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MARCELLE EXAMINER	
ART UNIT	PAPER NUMBER
263	4

DATE MAILED: 07/16/90

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☒ Notice of References Cited by Examiner, PTO-892.
- ☒ Notice re Patent Drawing, PTO-948.
- ☒ Notice of Art Cited by Applicant, PTO-1449
- ☐ Notice of Informal Patent Application, Form PTO-152
- ☒ Information on How to Effect Drawing Changes, PTO-1474
- ☐ _____

Part II SUMMARY OF ACTION

- ☒ Claims 1-19 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☒ Claims 15-19 are allowed.
- ☒ Claims 1-3 & 5-14 are rejected.
- ☒ Claims 4 are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
- ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
- ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections MUST be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
- ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

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1. Claims (1, 5, 8), 2, 3, 6, 7, 9, 10, (11, 12, 13), and 14 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 3, 5, 6, 7, 8, 9, 10 of U.S. Patent No. 4,926,419. Although the conflicting claims are not identical, they are not patentably distinct from each other because a predetermined number of accesses of the bus can be one access, and it would have been obvious to eliminate certain steps or means from the patented method and apparatus claims.

2. The obviousness-type double patenting rejection is a judicially established doctrine based upon public policy and is primarily intended to prevent prolongation of the patent term by prohibiting claims in a second patent not patentably distinct from claims in a first patent. *In re Vogel*, 164 USPQ 619 (CCPA 1970). A timely filed terminal disclaimer in compliance with 37 C.F.R. § 1.321(b) would overcome an actual or provisional rejection on this ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 C.F.R. § 1.78(d).

3. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 15-19 are allowable over the prior art of record.

The prior art of record fails to teach or suggest the additional features of a counter means and the step of counting the number of bus accesses.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Narayanan et. al teach a changeable priority order system.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melvin Marcelo whose telephone number is (703) 557-3360.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 557-3321.

mm

M.MARCELO:lfa
June 25, 1990

Douglas W. Olms

DOUGLAS W. OLMS
SUPERVISORY PATENT EXAMINER
ART UNIT 263